

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:19-cr-00035-RJC

UNITED STATES OF AMERICA,)
)
v.)
)
ROBERT MCCOY JR. and MISTY MCCOY)

JOINT MOTION TO STAY CASE DURING PERIOD OF PRETRIAL DIVERSION

The United States and Defendants Robert MCCOY Jr. and MISTY McCoy move to stay proceedings during a period of agreed-upon pretrial diversion. In support, the parties show as follows:

1. On February 6, 2019, this Court issued a charge of criminal contempt, finding probable cause to prosecute MCCOY and MISTY for criminal contempt based on their conduct in relation to *In re: Ace* (No. 18-3036) before the United States Bankruptcy Court for the Western District of North Carolina. (Order, Doc. 3, No. 3:18-cv-00630-RJC). In the Order, this Court appointed the United States Attorney's Office to prosecute the alleged contempt.
2. On February 6, 2019 MCCOY made his initial appearance before a United States Magistrate Judge, who advised MCCOY of the charge and applicable penalties. MCCOY retained private counsel.
3. On March 18, 2019, MISTY made her initial appearance before a United States District Judge, who advised MISTY of the charge and applicable penalties and appointed counsel to represent MISTY.
4. On May 23, 2019, the United States and MCCOY entered into an Agreement for Pretrial Diversion that establishes several conditions of pretrial diversion, including a period of

supervision by the United States Probation Office. That same day, counsel for the United States and MCCOY signed a Factual Basis setting forth agreed-upon facts.

5. On May 23, 2019, the United States and MISTY entered into an Agreement for Pretrial Diversion that establishes several conditions of pretrial diversion, including a period of supervision by the United States Probation Office. That same day, counsel for the United States and MISTY signed a Factual Basis setting forth agreed-upon facts.

6. The foregoing Pretrial Diversion Agreements are pending approval by the U.S. Probation Office.

7. The United States and both MCCOY and MISTY agree that any period of delay resulting from this Motion and the parties' Agreement for Pretrial Diversion shall be excluded in computing the time within which the trial of this matter must commence. *See* 18 U.S.C. § 3161(h)(2) (excluding "[a]ny period of delay during which prosecution is deferred by the attorney for the Government pursuant to written agreement with the defendant, with the approval of the court, for the purpose of allowing the defendant to demonstrate his good conduct").

8. Undersigned counsel has conferred with counsel for MCCOY, Mark Foster, who joins in this Motion.

9. Undersigned counsel has conferred with counsel for MISTY, Erin Taylor, who joins in this Motion.

For the reasons set forth herein, the United States and Defendants Robert MCCOY Jr. and MISTY McCoy respectfully request that this Court issue a stay of proceedings in this case for a period of six months and order that such period of delay shall be excluded in computing the time within which the trial in this matter must commence.

Respectfully submitted, this the 23rd day of May, 2019

R. ANDREW MURRAY
UNITED STATES ATTORNEY

By: /s/ Mark T. Odulio
Mark T. Odulio
Assistant United States Attorney
North Carolina Bar Number: 50011
United States Attorney's Office
227 West Trade Street, Suite 1700
Charlotte, North Carolina 28202
Telephone: 704.338.3108
Fax: 704.344.6629
E-mail: Mark.Odulio@usdoj.gov